

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:24-cv-60857-LEIBOWITZ

AURA VITAMINS, LLC,

Plaintiff,

v.

PHARMAGETICS,

Defendant.

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ORDER

THIS CAUSE is before the Court *sua sponte*. On May 20, 2024, *pro se* Plaintiff limited liability company filed a Complaint [ECF No. 1] but failed to pay the filing fee of \$405.00 or move to proceed *in forma pauperis* (“IFP”) [See ECF No. 2]. Upon due consideration, the Complaint is **DISMISSED**.

By statute, the Clerk of Court must require parties instituting a civil action to pay a filing fee. 28 U.S.C. § 1914(a). A fee exception exists for litigants who make the requisite showing of poverty. Under the IFP statute,

any court of the United States may authorize the commencement . . . of any suit, action or proceeding, civil or criminal, . . . without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] possesses that the person is unable to pay such fees or give security therefor.

28 U.S.C. §1915(a)(1); *see Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1306 n.1 (11th Cir. 2004) (per curiam) (citation omitted).

Plaintiff in this case neither paid the filing fee nor sought leave to proceed as a pauper. Consequently, this case is a non-starter. Further, Plaintiff LLC cannot pursue claims in this Court

absent representation by counsel. “The rule is well established that a corporation is an artificial entity that can act only through agents, cannot appear *pro se*, and must be represented by counsel.” *See Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385-1386 (11th Cir. 1985), *cert. denied*, 474 U.S. 1058 (1986); *Nat’l Independent Theater Exhibitors, Inc. v. Buena Vista Distr. Co.*, 748 F.2d 602, 609 (11th Cir. 1985); *see also Simon v. Leaderscape LLC*, No. 06-80797, 2007 WL 3171359, at *1 (S.D. Fla. Oct. 25, 2007) (applying the same body of law to LLC’s). So, even if Plaintiff had paid the filing fee or made the requisite showing to proceed IFP, this case cannot proceed absent Plaintiff’s obtaining representation.

Accordingly, it is hereby

ORDERED AND ADJUDGED that the Complaint [ECF No. 1] is **DISMISSED**. The Clerk of Court shall **CLOSE** this case. All pending motions are **DENIED AS MOOT**.

DONE AND ORDERED in the Southern District of Florida, this 21st day of May, 2024.


DAVID S. LEIBOWITZ
UNITED STATES DISTRICT JUDGE

cc: Aura Vitamins, LLC , *pro se*